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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,986	10/11/2002	Torsten Baier	449122014700	8734

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

EXAMINER

MANCHO, RONNIE M

ART UNIT	PAPER NUMBER
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3663

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,986

Applicant(s)

BAIER, TORSTEN

Examiner

Ronnie Mancho

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Long et al (5239472).

Regarding claim 1, Long et al (based on applicant's admission in the disclosure, pages 2-3, and in the PCT disclosure) disclose a device of a rail vehicle, comprising:

a computing unit in the rail vehicle, wherein the computing unit determines:

a distance between the rail vehicle and the next stopping point using a measured location value that specifies the location of the rail vehicle and a predefined stored route including stopping points;

the remaining travel time to the stopping point using a measured time value which specifies the time; and

a predefined stored timetable of the stopping points;

a deactivation time, whereby started from the deactivation time the rail vehicle with deactivated drive reaches the stopping point according to the time table based at least partially on the distance determined, the remaining travel time determined, a speed measured value specifying the speed of the rail vehicle, and a predefined coasting data corresponding to the coasting behavior of the rail vehicle when the drive is deactivated;

Art Unit: 3663

an output device connected to the computing unit, wherein the computing unit generates a deactivation signal which specifies the deactivation time;

a data input unit at which a timetable modification variable can be input into the device, wherein the computing unit is configured such that, a modified timetable is formed by adding the timetable modification variable to each predefined time information item of the predefined stored timetable. (Long et al, abstract; cols. 2-8), and wherein the remaining travel time and the deactivation time are determined on the basis of the modified timetable when a timetable modification variable is input.

Regarding claim 2, Long et al (based on applicant's admission in the disclosure, and in the PCT disclosure Long et al) discloses the device as claimed in claim 1, wherein the computing unit is configured such that it determines the deactivation time while taking into account a predefined braking profile and a predefined minimum speed, during a downward transgression of which the rail vehicle is braked while driving travel toward the stopping point, in accordance with the predefined braking profile.

Drawings

3. The drawings were received on 1-5-04. These drawings are accepted.

Response to Arguments

4. Applicant's arguments filed 1-05-04 have been fully considered but they are not persuasive for the following reasons:

The applicant is arguing that the device of Long et al cannot be relied on if there are operating failures once the rail vehicle is put into operation. In response, the above limitation was not part of the claimed invention. As a matter of fact, there is no perfect machine and thus every machine, including that of the applicant, is liable to faults and cannot be relied on once there are operating failures in the machine.

Long et al (as admitted by the applicant) disclose a data input unit at which a timetable modification variable can be input into the device, wherein the computing unit is configured such that, a modified timetable is formed by adding the timetable modification variable to each predefined time information item of the predefined stored timetable. (Long et al, abstract; cols. 2-8), and wherein the remaining travel time and the deactivation time are determined on the basis of the modified timetable when a timetable modification variable is input.

It therefore, believed that the rejection is proper and stands.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 3663

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Communication


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 703-305-6318. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Black can be reached on 703-305-8233. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Ronnie Mancho
Examiner
Art Unit 3663

4-25-04.


THOMAS G. BLACK
SUPERVISORY PATENT EXAMINER
GROUP 3600